

**26.05.2022**

Sl. No. 62

Srimanta

Ct.No. 05

**CRM (A)/2410/2022**

In Re : An application for anticipatory bail under Section **438** of the Code of Criminal Procedure, 1973 in connection with the **Jhalda** Police Station Case No. **199/2021** dated **12.12.2021** under Sections **143/325/326/307/302** of the Indian Penal Code, 1860.

In the matter of : **Nirmal Kumar**

**...petitioner.**

Mr. Kaustav Bagchi, Adv.,  
Mr. Debayan Ghosh, Adv.,  
Ms. Priti Kar, Adv.

...for the petitioner.

Mr. Neguive Ahmed, Adv.,  
Ms. Manisha Sharma, Adv.

...for the State.

Learned Counsel for the petitioner submits that other five co-accused persons in respect of the same offence have been enlarged on bail. It is further submitted that no overt act of the petitioner is borne out by the allegations levelled in the case.

Learned Counsel submits further that although a previous application for anticipatory bail was refused on March 17, 2022, the circumstances have changed in the meantime inasmuch as the charge-sheet has already been filed.

Learned Counsel appearing for the State opposes the prayer for anticipatory bail and submits that the petitioner has been absconding all along and cannot be taken advantage of his own wrong. It is further contended that the Coordinate Bench, on the last occasion, i.e., on March 17, 2022 took into

consideration the fact that there were strong incriminating materials against the petitioner and, considering the seriousness of the offence, the conduct of the petitioner and the possible extent of his complicity, the said Division Bench was pleased to reject the application for bail.

However, upon going through the materials-on-record, we find that the Division Bench previously took into consideration the fact that investigation was still continuing at that juncture, whereas now the charge-sheet has already been filed; hence, there is undoubtedly a change of circumstances between the rejection of the petitioner's application for anticipatory bail on March 17, 2022 and as of today.

That apart, since other people standing on the same footing as the petitioner have been enlarged on bail in view of the investigation having reached a mature stage, there is no reason why the petitioner should be kept behind the bars furthermore.

Despite the fact that the petitioner was avoiding arrest in the meantime, since we are to take into consideration the facts of the case as those stand today, the petitioners avoidance of being arrested cannot not, by itself, deter the Court in granting anticipatory bail to the petitioner, in the circumstances of the case.

Hence, CRM(A)/2410/2022 is **allowed**, granting anticipatory bail to the petitioner on condition that the petitioner shall comply with the stipulations as laid down in Section 438(2) of the Code of Criminal Procedure.

In the event of arrest, the petitioner shall be enlarged on bail upon furnishing security of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of like amount each, to the satisfaction of the Arresting Officer.

Moreover, the petitioner shall not leave the territorial jurisdiction of the Jhalda Police Station and shall report to the Investigating Officer as and when called upon to do so by the Investigating Officer. That apart, the petitioner shall meet the Investigating Officer once a fortnight irrespective of being summoned by the said Officer.

**( Sabyasachi Bhattacharyya, J.)**

**(Rai Chattopadhyay, J. )**